

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BUTTE DIVISION**

BAR K RANCH, LLC; MICHAEL  
WALSH; FRED WALSH, and  
EILEEN WHITE,

Plaintiffs,

vs.

UNITED STATES OF AMERICA, *et.*  
*al.*,

Defendants.

**CV 19-06-BU-BMM**

**ORDER DENYING PLAINTIFF’S  
MOTION FOR PARTIAL SUMMARY  
JUDGMENT (DOC. 85).**

Plaintiff Bar K Ranch, LLC (“Bar K”) filed this declaratory judgment action on January 29, 2019, seeking to quiet title to various segments of road in Madison County, Montana. Doc. 1. Several motions for partial summary judgment remain pending before the Court in this case. Docs. 80, 85, 91, 105, 111, and 117. The Court set a hearing on February 22, 2021, to resolve these motions. The Court need not hear oral argument on Bar K’s Motion for Partial Summary Judgment (Doc. 85). For the reasons laid out below, Bar K’s Motion for Summary Judgment (Doc. 85) is denied.

**BACKGROUND**

The various motions for partial summary judgment pending before the Court represent two distinct theatres of dispute between the parties. First, Motions 80, 85, 91, and 117 are directed at Section 36 (T08S, R01W), Section 1 (T09S, R01W), Section 12 (T09S, R01W). *See* Doc. 57 at 20–22. This dispute arises around the status of two roads: a historic road purportedly abandoned by Madison County in 1969; and an agency road subsequently built and maintained by the Bureau of Land Management (“BLM”). Second, Motions 105 and 111 address Section 27 (T09S, R01W) and Section 35 (T09S, R01W). The dispute arises around the status of two portions of a county road that briefly diverts over federal lands.

## **MOTION 85**

Bar K filed Motion 85 on December 11, 2020. Doc. 85. Motion 85 relates to the parties’ dispute over a historic road purportedly abandoned by Madison County in 1969 and an agency road subsequently built and maintained by BLM. Although Bar K titled Motion 85, “Plaintiff’s Motion for Partial Summary Judgment (“Substitute” Road) and/or for Rule 26(g) and 37(c) Sanctions,” Motion 85 constitutes a motion for sanctions and includes partial summary judgment as one proposed remedy. Doc. 85.

Bar K bases its motion for sanction on documents that BLM disclosed before the close of discovery. Doc. 86. The documents appear to relate to the historic intent of the various parties related to the 1969 abandonment of the disputed county road

and subsequent construction of the neighboring BLM road. Doc. 86. Bar K argues that these disclosures were late and asks the Court for several remedies. Bar K asks the Court to issue a default judgment under Fed. R. Civ. P. 26(g). Bar K asks, in the alternative, that the Court grant partial summary judgment, declaring either (1) that the subsequently-built BLM road constitutes a county road; or (2) that two sections of road that cross BLM land in Section 13 (T09S, R01W) and Section 14 (T09S, R01W) constitute county roads. Doc. 86 at 21–26.

## **ANALYSIS**

This discovery dispute falls short of bad faith or trickery that would warrant the relief that Bar K seeks. *See* Fed. R. Civ. P. 26(g) and 37(c). BLM disclosed the documents before the close of discovery. The record does not suggest that BLM acted in any sort of bad faith. BLM claims that it discovered the documents on December 1, 2020, and disclosed them to the necessary parties on December 7, 2020. Doc. 132 at 4. Continued or supplemental discovery proves predictable in a case like this that involves historical documents.. BLM constitutes a vast organization, and this case concerns dealings and documents from decades ago. The record suggests that BLM discovered relevant documents, reviewed them in a reasonable amount of time, and promptly disclosed them to the relevant parties. This conduct proves consistent with the vision for discovery outlined in the Federal Rules of Civil Procedure.

**IT IS HEREBY ORDERED:**

1. Bar K's Motion for Partial Summary Judgment (Doc. 85) is **DENIED**.
2. Each party shall bear its own costs related to this motion.

Dated the 8th day of February, 2021.

A handwritten signature in blue ink, reading "Brian Morris".

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Brian Morris, Chief District Judge  
United States District Court